

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA

|                           |   |                      |
|---------------------------|---|----------------------|
| United States of America, | ) |                      |
|                           | ) |                      |
| Plaintiff,                | ) |                      |
|                           | ) |                      |
| vs.                       | ) | File No. 1:19-cr-161 |
|                           | ) | 1:19-mj-286          |
| Michael K. Sinnawi,       | ) |                      |
|                           | ) |                      |
| Defendant.                | ) |                      |

TRANSCRIPT OF DIGITAL RECORDING  
OF DETENTION HEARING

Taken at  
United States Courthouse  
Bismarck, North Dakota  
August 29, 2019

BEFORE THE HONORABLE CLARE R. HOCHHALTER  
-- UNITED STATES DISTRICT MAGISTRATE COURT JUDGE --

APPEARANCES

MR. RICK LEE VOLK  
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FOR THE UNITED STATES

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FOR THE DEFENDANT  
MICHAEL K. SINNAWI

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Certificate of Transcriber - Page 14

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1 the Court's file, and so I simply have argument to support --  
2 to any additional evidence to present.

3 with reference to the risk of flight and risk of  
4 danger here, we're dealing with an individual who has  
5 absolutely no ties to the state of North Dakota absent the  
6 alleged criminal conduct. And as the Court can see from the  
7 Affidavit here, he was the registered guest at the Country Inn  
8 and Suites beginning on April -- I'm sorry, not April,  
9 August 4th of 2019, up until the execution of a search warrant  
10 on August 14th, so a period of 10 days.

11 That particular location -- and when the search  
12 warrant was executed, they found 450 oxycodone 30-milligram  
13 pills and four -- approximately \$45,000 in cash, and also  
14 seized cellular telephones, which as the Court can see from the  
15 Affidavit, indicate that this particular defendant was  
16 directing the activities of his father in distributing  
17 oxycodone pills to other individuals who were coming to the  
18 hotel to secure them from that group. So the evidence against  
19 Mr. Sinnawi is -- is very strong, substantial towards his  
20 guilt; couple that with the lack of ties to the state of North  
21 Dakota.

22 He does have a history of violence in his -- in his  
23 past. He does have a conviction for assault with a weapon.  
24 And, quite honestly, he has a fairly repetitive criminal  
25 history, some of which isn't necessarily the worst type of

1 activities. Some is just driving -- driving offenses, but he  
2 has criminal history dating back to his juvenile days at age 16  
3 that does include a variety of offenses, to include damage to  
4 property, theft from motor vehicles, assault with a dangerous  
5 weapon, and it -- and, quite honestly, Your Honor, it just is  
6 repetitive arrests, some dismissed, but many convictions  
7 intermingled in there.

8 And it appears he's been -- he has committed crimes  
9 while he's been on probation in the past, so Court  
10 interventions have not really modified his behavior.

11 The other concern that I have is -- is that he claims  
12 he does not know where -- the current whereabouts of his  
13 father, who is also a charged defendant in this case and was  
14 with them at the time of the arrest -- or at the hotel. He was  
15 obviously subsequently released, but he claims he doesn't know  
16 where he is, and he's a charged defendant in this case, and he  
17 was directing his father's activities per the -- per the  
18 Affidavit.

19 Given all of that, Your Honor, and the nature of the  
20 conduct, Your Honor, we do believe that Mr. Sinnawi presents a  
21 risk of flight and a risk -- risk of danger to the community  
22 should he be released, and we would ask that the Court issue an  
23 order of detention on those grounds.

24 THE COURT: Mr. Volk, the charge in the Complaint is  
25 under Title 21, an offense that has a maximum term of

1 imprisonment of more than 10 years?

2 MR. VOLK: Yes, it does, and so it does carry that  
3 presumption for detention.

4 THE COURT: Under 3142(e)(3) --

5 MR. VOLK: Yes.

6 THE COURT: -- presumption of detention. Mr. Waters,  
7 do you see that differently at all?

8 MR. WATERS: I don't see that differently. Certainly  
9 I would disagree with some of the characterizations made by the  
10 government, if the Court would allow me.

11 THE COURT: Understand, and, yes. Do you have any  
12 witness testimony, or --

13 MR. WATERS: I don't have any witness, Your Honor.  
14 I'll simply argue.

15 THE COURT: Argument. Okay.

16 MR. WATERS: Thank you. Well, Judge, just to begin  
17 with, I will submit that as far as community ties in North  
18 Dakota, there aren't any. But what I would take issue with is  
19 that he lacks familial ties, that he lacks residential ties and  
20 employment ties, property ties.

21 His entire family is in Michigan. That is everybody.  
22 His sister -- I've been in contact with his family about three  
23 or four times just before today. They have been all over me to  
24 make sure that I know that I can communicate to the Court that  
25 they will be responsible to ensuring that he appears for future

1 hearings in this matter. To an extent --

2 THE COURT: These are the family members that  
3 pretrial services was in touch with and are mentioned in the  
4 Bond Report.

5 MR. WATERS: The conversations that I had with family  
6 members prior to should have been reflected in the pretrial  
7 report, and from what I saw, I think the -- the report is  
8 accurate, as far as what I was told.

9 THE COURT: Okay. And I have that report, as well as  
10 the Complaint and Affidavit and any of the other files and  
11 records available.

12 MR. WATERS: Oh, great. So what that leaves the  
13 Court with is to decide, to what extent is Mr. Sinnawi actually  
14 a risk to fail to appear, and to what extent is Mr. Sinnawi a  
15 risk to public safety?

16 As it relates to his failure to appear, I would  
17 submit to the Court that in review of his criminal record, I  
18 see absolutely no indication of him failing to appear for --  
19 for court dates. And as this Court is aware, past behavior is  
20 a good indication -- not an only indication, but a good  
21 indication of what will happen in the future.

22 Additionally, I would note that his last criminal  
23 activity prior to being arrested on the present charges was in  
24 2015. I'm not aware of whether he's offended while on  
25 probation or not. I don't have that information, so I can't

1 speak to that.

2 But what I can speak to is that my review of his  
3 record indicates that he has had one prior conviction for  
4 violent behavior. That was at the age of 18 and is an assault  
5 with dangerous weapons. He was 18, and we don't know what the  
6 facts are surrounding that. We only know that that's what the  
7 conviction was.

8 The remainder of his crimes, with the exception of a  
9 larceny, which is the case that I'd talked about to the Court,  
10 the 2015 conviction, seemed to be lower-level crimes, the  
11 majority of which are operating a vehicle without a license.  
12 He has -- he has at least eight prior convictions for that  
13 since 2005.

14 I'm not making light of his criminal history, but  
15 what I am trying to do is frame this for the Court's attention  
16 in that this is not someone that -- while there may be a  
17 presumption of detention, this is not someone, based on his  
18 criminal record, that this Court can find makes him a risk to  
19 fail to appear.

20 In fact, on his case in Chicago that was dismissed,  
21 that was a manufacture, deliver charge of cannabis. He  
22 reported and his family also told me the same, that he had  
23 multiple hearings that he was supposed to go to in Chicago that  
24 he, in fact, showed up for. I doubt the state would've  
25 dismissed the charge if he had failed to live up to his



1 obligations.

2           So what that leaves us with is, what danger to the  
3 community is Mr. Sinnawi? Well, a review of his prior criminal  
4 history doesn't show any prior drug-related offenses. It  
5 certainly doesn't show any prior convictions for delivery or  
6 even possession.

7           There were three people involved in this  
8 investigation, one of which was his father, and the other was  
9 his cousin, so we have three people here that could have been  
10 actors involved. That should give the Court some pause as to  
11 the strength of the evidence against the defendant.

12           And, finally, with respect to the text messages, we  
13 have no way of knowing whether Mr. Sinnawi was the individual  
14 who sent those text messages. We simply know that it came from  
15 a phone that the government is going to allege was his.

16           So for all these reasons, while there may be a  
17 presumption of detention, given the prior history that the  
18 defendant has, the lack of drug-related offenses, the fact that  
19 there were three people involved here, and specifically the  
20 lack of failing to appear for court dates -- this is not a  
21 state court issue.

22           This is a federal case. The federal government has  
23 way more resources than a state court does in keeping an eye on  
24 defendants. That's what pretrial service program is. And if  
25 the Court deems that detaining Mr. Sinnawi on these facts --

1 that's a little concerning simply because he does have the  
2 presumption of innocence on this case.

3 And so for those reasons, I would request that the  
4 Court set conditions of pretrial release to the extent it's  
5 able that will satisfy the Court's concern about appearing for  
6 future court dates and also the minimal concern that the Court  
7 should have regarding safety of the community. Thank you.

8 THE COURT: Is Christine Sinnawi a family member?

9 MR. WATERS: That's his sister, yes, and I've spoken  
10 with her about five times.

11 THE COURT: Okay. The same Christine Sinnawi who's  
12 mentioned in the Affidavit attached to the Complaint who wiped  
13 the phone?

14 MR. WATERS: I can't speak to that because I haven't  
15 heard that evidence, but that certainly is in the Affidavit.

16 THE COURT: Mr. Volk, anything else?

17 MR. VOLK: That is one and the same, Your Honor.

18 Your Honor, the only other thing that I would add is,  
19 based upon my experience with the supervision in the Eastern  
20 District of Michigan, I can advise the Court that the  
21 likelihood that that supervision is going to be substantial is  
22 -- is probably minimal. It's certainly not going to be the  
23 same supervision that may -- may result here in the District of  
24 North Dakota.

25 I've had multiple issues with individuals who have

1 been living in the Eastern District of Michigan who simply  
2 don't show up. We've had numerous issues with continued use of  
3 substances while they've been on supervision, and the ability  
4 to get them back or do anything at that point has been very  
5 difficult, to say the least.

6 The fact of the matter is, Mr. Sinnawi can do  
7 practically anything if he returns back to the state of  
8 Michigan, and we will likely not have a whole lot of  
9 supervision going on, Your Honor.

10 THE COURT: Well, as we discussed, there is, under  
11 3142(e)(3), a presumption of detention under the circumstances,  
12 given the offense that's charged, but it is rebuttable.

13 And under the circumstances, 3142(g) requires me, as  
14 counsel knows, to look at certain factors; among those, the  
15 nature and circumstances of the offense that's charged.

16 The weight of the evidence against the defendant,  
17 notwithstanding the fact that defendant is presumed innocent,  
18 one of the factors to be considered, and it's nondiscretionary,  
19 is the weight of the evidence against the defendant.

20 The history and characteristics of the person,  
21 including a person's character, family ties, which as Mr. Volk  
22 points out don't exist in this district, in this community.

23 Employment, I saw nothing to suggest that defendant  
24 is employed. I understand that he was at one point employed,  
25 but is no longer.

1           Financial resources, which again, this defendant does  
2 not have substantial resources to provide for himself. And I  
3 understand that there are family members who would be willing  
4 to provide some support, but I'm also concerned about the  
5 family members who -- it seems that the offense conduct itself  
6 involves a number of family members; community ties, of which  
7 there are none in this district.

8           Past conduct, that can include criminal history.  
9 Here, as Mr. Waters points out, I think it's not the worst  
10 we've seen, but there is a pattern of it over time. There are  
11 multiple pages attached to the Bond Report suggesting a lack of  
12 defendant's ability to conform himself with applicable laws.

13           And so based on those facts, as well as the  
14 conclusion of the pretrial services' recommendation, which was  
15 that defendant be detained, it's going to be the order of the  
16 Court that -- that defendant has not rebutted the presumption  
17 of detention under the circumstances and, therefore, defendant  
18 should be detained as both a flight risk and danger to the  
19 community and will remain in custody of the attorney general,  
20 these U.S. marshals pending further proceedings and orders in  
21 this case.

22           Anything else, Mr. Volk?

23           MR. VOLK: No, Your Honor.

24           THE COURT: Mr. Waters?

25           MR. WATERS: Not at this time, Your Honor.

1 THE COURT: Thank you. Court is adjourned.  
2 (Proceedings concluded at 1:45 p.m., the same day.)

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CERTIFICATE

State of North Dakota    )  
  ) ss  
County of Burleigh        )

I, Sandra E. Ehrmantraut, do hereby certify that the foregoing and attached typewritten pages contain an accurate transcription, to the best of my ability, of said digital recording made at the time and place herein indicated.

Dated: December 3, 2020

/s/ Sandra E. Ehrmantraut